

## **REMARKS**

The Office Action dated February 25, 2008, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 4-11, 13, and 19-41 are currently pending in the application, of which claims 1, 13, 19, and 41 are independent claims. Claims 1, 13, 19, and 41 have been amended to more particularly point out and distinctly claim the invention. No new matter has been added. Claims 1, 4-11, 13, and 19-41 are respectfully submitted for consideration.

A telephonic interview with the Examiner was conducted on August 19, 2008, between the Examiner and Applicant's representative. Applicant thanks the Examiner for the courtesies extended Applicant's representative during the interview.

During the interview it was agreed (according to the understanding of Applicant's representative) that the pending rejections of the claims were overcome by the amendments proposed above, in which the claims have been amended to indicate that a true default node is used, such that if the default node becomes available, that node is used, even if there is nothing wrong with another node currently being used. Such a concept is entirely absent from the art of record.

The claims have been amended to clarify that the charging information is sent to the default charging node after a period during which said default charging node is unavailable. The art cited by the Office Action, for example the 3GPP specification TS 32.215V4.00 ("3GPP") is entirely silent on this. There is no disclosure or suggestion in

the Annex noted in the Office Action as to the idea that a default charging node would be used whenever the default charging node is available, even after the default charging node has been temporarily unavailable.

3GPP does not mention anything about reverting back to the default charging node. The specifications (7.3.4.7 - examples of GTP messaging cases) show 3 cases about CG failure, but they refer only to the CDRs after the failure. There is no statement about what happens after recovery of the failed CG. This patent proposal also covers this problem.

In the certain embodiments of the present invention, if the default CG for a given session is not available, the new CDRs created by the session are sent to one of the available CGs (for example, to the one with highest priority). Once the session's default CG is back alive, the new CDRs for that session are sent back to the session's default CG.

At the time the invention was made, 3GPP (and the rest of the cited art of record) merely directed that if the active charging gateway changes for a particular session then the charging records created by the GGSN are directed to a new charging gateway. This new charging gateway is used for the rest of the session, regardless of whether or not the original charging gateway becomes active again or not. It should be noted that the allocation of the default charging node, as described, is for a session.

Claims 13 and 19-41 had been rejected under 35 U.S.C. 102(b) as being anticipated by 3GPP. For the reasons set forth above, 3GPP does not anticipate the claims as amended, and consequently the rejection should be withdrawn.

Claims 1 and 4-11 had been rejected under 35 U.S.C. 103(a) as being unpatentable over allegedly Admitted Prior Art (“APA”) in view of 3GPP. Applicant respectfully traverses this rejection.

The Office Action referred, as APA, to a portion of the “Background” section of the present application. The APA, however, stands in contrast with the claimed solution, and is identified in the “Background” section of the present application as having various problems, which would tend to lead one of ordinary skill in the art away from using the APA. Accordingly, the invention is novel and inventive over the Office Action’s proposed combination of the APA and 3GPP.

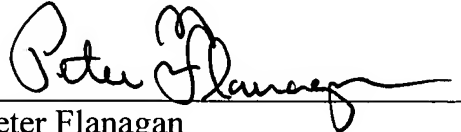
Indeed, it is respectfully submitted that there is no properly established motivation to combine the APA and 3GPP, at least because of the problems identified in the “Background” section of the present application, which provide clear teaching away from the approaches outlined in the APA. Thus, for all the reasons stated above, the rejection should be withdrawn.

As discussed above, each of claims 1, 4-11, 13, and 19-41 recites subject matter that is neither disclosed nor suggested in the cited art. It is, therefore, respectfully requested that all of claims 1, 4-11, 13, and 19-41 be allowed, and that this application be passed to issuance.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, Applicant’s undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Flanagan", written over a horizontal line.

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Enclosures: Petition for Extension of Time  
Information Disclosure Statement  
PTO-1449 Form  
Reference (1)  
Japanese Office Action  
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